

# **EXHIBIT 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

KEN JOHANSEN, on behalf of himself and : Case No. 2:16-cv-00121  
others similarly situated, :  
Plaintiff, : Judge Marbley  
v. : Magistrate Judge Deavers  
ONE PLANET OPS INC., :  
Defendant. :

**Declaration of Brian K. Murphy in Support of Motion for Final Approval**

I, Brian K. Murphy, declare under penalty of perjury:

1. I make this affidavit in support of the Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement.
2. I am an attorney duly admitted to practice in Ohio and Illinois, I am over 18 years of age, I am competent to testify, and I make this affidavit on personal knowledge. I have extensive experience in the prosecution of class actions on behalf of consumers.

**Qualification of Counsel**

3. I and my firm, Murray Murphy Moul + Basil LLP, have extensive experience in the prosecution of class actions on behalf of consumers, including claims under the Telephone Consumer Protection Act, 47 U.S.C. §227. I make this affidavit to describe the work that I and my co-counsel have done in identifying, investigating, and prosecuting the claims in the action and to set forth my qualifications to serve as class counsel and to state that based on my experience, I consider this settlement an excellent result for the class that merits final approval from the Court.

4. I was involved in every stage of litigation in this case, from pre-trial

investigation, analysis of Plaintiff's potential claims, drafting and researching the complaint and discovery work, review of documents, discovery responses, depositions, and general preparation for mediation and trial. I also additionally participated in settlement negotiations and strategy, participated in the mediation process and contributed on preparing the proposed settlement agreement and motion for preliminary approval.

5. I am a 1994 graduate of The Ohio State University College of Law. In 1994, I was admitted to the Bar of Illinois. In 1999, I was admitted to the Bar of Ohio. Since then, I have been admitted to practice before numerous Federal District and Appellate Courts and the United States Supreme Court. From time to time, I have appeared in other State and Federal District Courts *pro hac vice*. I am in good standing in every court to which I am admitted to practice.

6. Since 1999, I have been a partner with Murray Murphy Moul + Basil LLP in Columbus, Ohio.

7. A sampling of class actions in which my firm and I have participated are as follows:

Securities Litigation

Murray Murphy Moul + Basil LLP has developed into one of the most experienced securities litigation firms in the State of Ohio. Since 2011, the firm has been a member of the Ohio Attorney General's Securities Panel, providing ongoing advice to the office related to potential securities claims affecting Ohio's public pension funds. The firm has represented numerous public pension funds for the State of Ohio under both Republican and Democratic administration since 2006. The firm has also prosecuted matters on behalf of other large pension funds. The following is a short summary of a representative sampling of the securities cases the

firm has been involved with over the years:

In re Cardinal Health Securities Litigation  
(United States District Court for the Southern District of Ohio)

Murray Murphy Moul + Basil LLP was co-counsel in this matter, which resulted in a \$600 million settlement for the class—the largest securities class action settlement in the history of the Sixth Circuit. The settlement was approved by Judge Marbley on November 14, 2007. The Complaint alleged that Cardinal, and certain of its officers and directors, issued materially false statements concerning the Company's financial condition. The Complaint was on behalf of all persons who purchased the publicly traded securities of Cardinal Health, Inc. between October 24, 2000 and June 30, 2004 inclusive. After a review of in excess of six million documents and extensive depositions and interviews, and a lengthy and extensive mediation process, the parties entered into the settlement agreement pursuant to which the \$600 million settlement fund was created.

In re Marsh & McLennan Cos., Inc. Securities Litigation  
(United States District Court for the Southern District of New York)

Murray Murphy Moul + Basil LLP was appointed by former Attorney General Jim Petro as co-counsel in this matter in which the Public Employees' Retirement System of Ohio, State Teachers' Retirement System of Ohio, and Ohio Bureau of Workers' Compensation were appointed as co-Lead Plaintiffs. The case was settled at the end of 2009 for \$400 million.

In re Abercrombie & Fitch Securities Litigation  
(United States District Court for the Southern District of Ohio)

Murray Murphy Moul + Basil LLP was co-counsel in this PSLRA case which alleged that Abercrombie (a) carried out a scheme to deceive the investing public; (b) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for Abercrombie securities. The Court certified the class, and a settlement was eventually reached in the amount of \$12 million in the middle of 2010.

Ohio Board of Deferred Compensation v. Pilgrim Baxter  
(United States District Court for the District of Maryland)

Murray Murphy Moul + Basil LLP assisted in the prosecution of this securities class action brought on behalf of purchasers and holders of Pilgrim Baxter mutual funds from November 1, 1998 to November 13, 2003 who were harmed by a pattern of market timing trading practices. The Ohio Board of Deferred Compensation was appointed as the lead Plaintiff in this litigation, and Murray Murphy Moul + Basil

served as co-counsel. The case was settled for \$31,538,600 in 2010.

In Re Bank of New York Mellon Foreign Currency Transaction Litigation  
(United States District Court for the Southern District of New York)

Murray Murphy Moul + Basil LLP represented the co-Lead Plaintiffs, the Schools Employees Retirement System of Ohio and the Ohio Police and Fire Pension Fund, in a class action brought against the Bank of New York Mellon by customers who had utilized the Bank's foreign currency exchange services and who were charged inaccurate exchange rates. The case settled for in excess of \$500 million in 2015.

Anthony Basile, et al v. Valeant Pharmaceuticals, et al  
(United States District Court for the Central District of California)

Murray Murphy Moul + Basil LLP represented the co-Lead Plaintiff, the State Teachers Retirement System of Ohio, in a class action brought against Valeant Pharmaceuticals and hedge fund manager Bill Ackman alleging massive insider trading violations related to Valeant's attempted hostile tender offer for Allergan. The case settled in 2018 for \$250 million, representing the largest settlement ever for a case based on insider trading allegations.

Shenk v. Mallinckrodt PLC  
(United States District Court for the District of Columbia)

Murray Murphy Moul + Basil LLP represents the Lead Plaintiff, the State Teachers Retirement System of Ohio, in a class action brought against pharmaceutical manufacturer Mallinckrodt PLC related to securities violations engaged in by the company and its management. The case is currently pending.

Other Class Litigation Experience

Murray Murphy Moul + Basil LLP has served as Lead Class Counsel in prosecuting other large class actions, including Violette, et al v. P.A. Days, Inc. (S.D. Ohio 2004) (Marbley, J.) and Adkins v. Ricart Properties, et al., (S. D. Ohio 2004) (Marbley, J.), two certified class actions that included over 100,000 class members. Similarly, Murray Murphy Moul + Basil LLP served as Co-Lead Counsel in the certified class action of Mick v. Level Propane Gases, Inc., 203 F.R.D. 324 (S.D. Ohio 2001) (Sargus, J.). The Firm has also appeared in the United States Supreme Court in a putative class action arising in the Southern District of Ohio. Household Credit Services, et al v. Pfennig, 124 S.Ct 1741 (2004).

Murray Murphy Moul + Basil LLP has also served as Defense Counsel in two putative class actions asserting claims against Ohio state agencies. Murray Murphy Moul + Basil LLP was trial counsel in the matter of S.H and all other similarly situated, et al v. Taft et al, Case Number: 2:04-cv-1206 (Smith, J.) and co-counsel in J.P. and all others similarly situated et al v. Taft et al, Case Number: 2:04-cv-692 (Marbley, J.).

Murray Murphy Moul + Basil LLP also served as Lead Counsel in class litigation that have been resolved in favor of the Classes: Downes v. Ameritech Corp., et al., Case No. 99 CH 11356 (Cook County, IL), Bellile v. Ameritech Corp., et al., Case No. 99-925403-CP (Wayne County, MI), Gary Phillips & Assoc. v. Ameritech Corp., 144 Ohio App. 3d 149, 759 N.E.2d 833 (Franklin County, OH) and Prestemon, et al v. Echostar Communication and WebTV Networks, Case No. 2002-053014 (Alameda Cty, California Sup. Court).

The firm was also successful in bringing about one of the largest class settlements ever for a class of consumers besieged by telemarketing prerecord robocalls in Desai v. ADT Security Systems, Case No. 11-cv-01925 (N.D. Illinois). The firm was Co-Lead Counsel on behalf of nationwide class that received \$15,000,000 in 2013.

8. I have been directly involved in communicating with and monitoring the Settlement Administrator in this matter. A.D. Data is a nationally-recognized class action administration firm that the Court appointed as the Settlement Administrator. The Settlement Administrator's duties included: (1) sending the Class Notice to the Settlement Class pursuant to the Settlement; (2) responding to inquiries regarding the settlement process from persons in the Settlement Class; (3) processing and evaluating Claim Forms, Requests for Exclusion, and objections; and (4) issuing Benefit Checks and Cash Benefits. A.B. Data has completed its notice and claims administration obligations required of it to date.

9. As instructed by the Court's Preliminary Approval Order, A.B. Data as Settlement Administrator sent the notice required by the Class Action Fairness Act, 28 U.S.C. § 1715 ("CAFA"), to the appropriate federal and state officials, mailed the approved form of notice to potential members of the class, created a case-specific website, and processed claims and the two requests for exclusion from the class.

10. No objections were received to any aspect of the Settlement, including Plaintiff's Motion for Award of Attorneys' Fees, Expenses, and Class Representative Award, and only two requests for exclusion were received.

11. The Settlement Administrator has preliminary approved as valid 456 of the claims that have been submitted. If all the attorneys' fees, expenses, incentive award, and Settlement Administration Expenses are approved as requested, we estimate that the average Settlement Class Member payment would be approximately \$831.74, which exceeds the estimate provide to the Settlement Class Members in the Notice.

SIGNED UNDER PAINS AND PENALTIES OF PERJURY THIS 14th DAY OF FEBRUARY, 2020

*/s/ Brian K. Murphy*  
Brian K. Murphy